IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 27TH NOVEMBER 2006 / 6TH AGRAHAYANA 1928

WP(C).No. 31190 of 2006(K)

OS.173/2006 of MUNSIFF'S COURT, KOCHI

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PETITIONER:

C.K.UBAID, S/O.KAMU, AGED 51 YEARS,
CC NO.3/7, CHALACKAPARAMBIL HOUSE,
KALVATHY ROAD, KOCHI.

BY ADV. SRI.C.K.ABDUL RAHIM
SRI.C.MOIDEEN KUTTY

RESPONDENTS:

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1. M/S.SEALINE HOTELS PVT. LTD.,
ESSAR BUILDING, NEAR NORTH OVER BRIDGE,
ERNAKULAM, REP.BY ITS MANAGING DIRECTOR,
SHRI V.H.M.RAFEEQUE.

2. SHRI. V.H.SUBAIR, S/O. HASSAN,
VALIYAPARAMBIL HOUSE,
DOOR NO.6/1274, MATTANCHERY, KOCHI.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C)NO.31190 OF 2006

DATED THIS THE 27th DAY OF NOVEMBER, 2006

JUDGMENT

Petitioner is the first defendant in O.S.173/06 on the file of Munsiff Court, Kochi. First respondent is the plaintiff and second respondent is the second defendant. Petitioner is challenging Ext.P8 order passed by learned Munsiff whereunder Ext.P7 application was dismissed. Ext.P7 application was filed to direct first respondent to produce the original documents relied on in plaint and to send them with the admitted signature and thumb impression of petitioner to Forensic Science Laboratory for comparing the signatures and thump impressions seen in the document. The contention of petitioner is that the signature and thumb impression in the documents are forged and therefore Court below should have allowed the application. Under Ext.P8 order, learned Munsiff found that from the nature of the suit it is not necessary to send the documents to an expert as sought for.

2. The suit is one for an injunction alone on the basis of possession. Even according to petitioner O.S.120/06 was filed by petitioner before Sub Court, Kochi seeking partition disputing the documents sought to be produced and sent to an expert under Ext.P7 application. In that suit, petitioner has specifically raised the very same contentions raised in the suit on the said

documents. The question whether the said documents are genuine or forged is to be decided in that suit. In such circumstances, I do not find any infirmity in Ext.P8 order warranting interference in exercise of the extraordinary jurisdiction of this Court under Article 227 of Constitution of India. Petitioner is at liberty to raise objections,if any to the marking of photocopies of the documents, if he is disputing the same at the time of evidence.

Petition is disposed accordingly.

M.SASIDHARAN NAMBIAR,JUDGE

Acd